

REMARKS

The Office Action dated April 6, 2004 has been received and carefully noted. The above amendments to the claims and the following remarks are submitted as a full and complete response thereto. Claims 7, 17, 21 and 23 have been amended to clear up minor points of indefiniteness raised during an Interview. Claims 2-23 are pending in the above-cited application and are again submitted for consideration.

Applicants wish to thank the Examiner and Primary Examiner Fan for extending the courtesy of a personal Interview. During the Interview, Applicant's Representative discussed the claims and traversed the rejections made in the previous Office Action under 35 U.S.C. §112, second paragraph. The Examiners indicated that those rejections would be withdrawn upon receipt of this Response to the Office Action. Additionally, the Examiner also pointed out minor errors in claims 17, 21 and 23 and those minor errors have been addressed above. Examiner Fan also pointed out that claims 7 and 10 recited identical subject matter and Applicants have amended claim 7 to correct the potential rejection.

Applicants note that the prior objection to the drawings and the prior art rejections of the claims have been withdrawn. No new prior art rejections of the claims have been made, with only indefiniteness-type rejections remaining.

Claims 2-23 were rejected under 35 U.S.C. §112, second paragraph, under two separate grounds. The first ground of rejection was that the independent claims recite "said pulse does not conform to an industry-standard pulse" but "fails to particularly point out which/what is the no [sic] industry-standard conformed pulse, wherein only

industry standard specified pulse(s) taught.” Applicants respectfully traverse this ground of rejection.

The independent claims recite “said pulse does not conform to an industry-standard pulse for indicating a live transceiver.” The claims do NOT recite a pulse that fails to conform to *any* industry standard; the claim merely recites that the pulse is not one that conforms to the industry standard for indicating a live transceiver. In other words, the pulse conforms to industry standards, just not the industry standard pulse for indicating a live transceiver.

As discussed at page 6, lines 5-12, of the instant specification, during the powered down mode, link pulses are sent out that recur like the industry specified normal link pulse (nlp) for 10baseT transceivers. It is acknowledged that the industry specification requires the MLT3 signal type to indicate a live connection on the media for 10/100 transceiver circuits. Thus, Applicants respectfully assert that the language of the independent claims distinctly claim the subject matter of the present invention. Reconsideration and withdrawal of the rejection, as to the first ground, are respectfully requested.

The second ground of rejection was that the independent claims recite “the industry-standard pulse” but that “renders the claims being [sic] indefinite for failing to point out, which ‘the industry standard’ it refers to as the specification teaches more than one industry standard specified pulses [sic].” Applicants respectfully traverse this ground of rejection.

“Although claims must be read in light of the specification of which they are a part, it is improper to read limitations from the written description into a claim.” Wenger Mfg., Inc. v. Coating Mach. Sys., Inc., 239 F.3d 1225, 1237 (Fed. Cir. 2001). The limitations “the industry-standard pulse for indicating the live transceiver” recited in each of the independent claims refer back to the earlier recitation in each of those claims of “a industry-standard pulse for indicating the live transceiver,” discussed above. The fact that the recitation may read on different industry-stand pulses for indicating a live transceiver does not render that limitation indefinite.

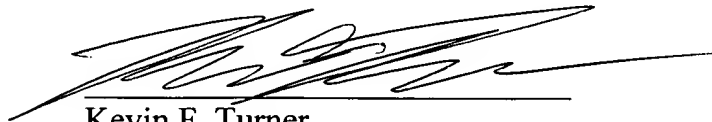
As discussed in M.P.E.P. 2173.04, the breadth of a claim is not to be equated with indefiniteness. Thus, Applicants respectfully assert that the above-discussed language of the independent claims distinctly claim the subject matter of the present invention. Reconsideration and withdrawal of the rejection, as to the first ground, are respectfully requested.

In view of the above, Applicants respectfully submit that claims 2-23 are definite and allowable over the prior art of record. It is therefore respectfully requested that all of claims 2-23 be allowed, and this application passed to issue.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the applicant’s undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, the applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Kevin F. Turner', written over a horizontal line.

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